

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

THE HIPSAVER COMPANY, INC.,

Plaintiff,

v.

J.T. POSEY COMPANY,

Defendant.

AND RELATED COUNTERCLAIM.

Civil Action No. 05-10917 PBS

ORAL HEARING REQUESTED

**J.T. POSEY COMPANY'S OPPOSITION TO THE HIPSAVER COMPANY, INC.'S
MOTION IN LIMINE TO EXCLUDE OPINION TESTIMONY OF KEVIN
MINISSIAN**

J.T. Posey Company ("Posey") hereby opposes The HipSaver Company, Inc.'s ("HipSaver") motion *in limine* to exclude opinion testimony of Kevin Minissian. Mr. Minissian is fully qualified to testify as to the laundry issues in this case and his reports and his testimony are reliable and will aid the finder of fact. Moreover, HipSaver's arguments in support of its motion go to the weight to be accorded Mr. Minissian's testimony, not its admissibility. Accordingly the Court should deny Plaintiff's motion to exclude opinion testimony of Kevin Minissian in its entirety.

I. FACTS

On or about February 16, 2006, Posey designated Kevin Minissian as a laundry expert and served his expert report, Exhibit A to Plaintiff's Motion, on HipSaver. In his expert report,

Mr. Minissian states his opinion that several statements and graphics that appear on HipSaver's Internet website are false. These are: (i) the statement that the "Average Wash/Dry Temperature of Institution laundries [is] (180°)"; (ii) the graphic representation that the "CDC Recommended Wash Temperature Range" is between 180 and 250 degrees F.; iii) the statement that the "CDC Guidelines Minimum Recommended Wash Temperature [is] (160°)"; (iv) the statement that "Only HipSaver hip protectors clearly meets [sic] the CDC Guidelines for infection control in the laundry"; and (v) the statement that "Only HipSaver can be laundered according to the CDC Center for Disease Control) Guidelines for the laundry". Exhibit "A" to Plaintiff's Motion, §§ 1-4.

After HipSaver served its expert reports, Mr. Minissian prepared a supplemental report, Exhibit B to Plaintiff's Motion, which was served on or about October 16, 2006. HipSaver designated three experts, one of whom it later withdrew. Neither of its two remaining experts has any laundry experience.

II. ARGUMENT

While Mr. Minissian has opined that five of the advertising claims on HipSaver's website are false, HipSaver only challenges his opinions with respect to two of those claims, i.e., the statement that "Only HipSaver hip protectors clearly meet the CDC Guidelines for infection control in the laundry" and the statement that "Only HipSaver can be laundered according to the CDC (Center for Disease Control) Guidelines for laundry." As an afterthought, HipSaver also challenges Mr. Minissian's expert qualifications. Posey will address the points raised by HipSaver in the same order HipSaver presented them.

A. Mr. Minissian's Reports and Testimony Are Reliable And Should Be Admitted

1. Mr. Minissian's Opinions Are Based Upon a Reliable Wash Test of Posey's Products.

The inquiry into reliability is flexible. *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 151 (1999)("[W]e conclude that the trial judge must have considerable leeway in deciding in a particular case how to go about determining whether particular expert testimony is reliable."). See also *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 594, 597 (1993); *Holbrook v. Lykes Bros. S.S. Co., Inc.*, 80 F.3d 777, 784 (3rd Cir. 1996)("the reliability requirement . . . should not be applied too strictly.").

Basically, Mr. Minissian did a wash test. To conduct the test, Posey supplied Mr. Minissian with 40 high durability (HD) and 40 standard (ST) hip protectors. Mr. Minissian decided to wash them in a 100 lb. commercial laundry machine manufactured by Milnor Corporation. The machine was equipped with a computer-controlled washer microprocessor for accurate temperature control. It was also equipped with Norchem's NORFLOW-WIN precision chemical injection system for dosing the laundry water with laundry chemicals such as alkali, detergent, bleach and sour. Exhibit "A" to Plaintiff's Motion, § 4.

First, one HD sample and one ST sample were put aside for control purposes. The remaining hip protectors were washed according to the CDC guidelines – the HD were laundered according to the high temperature standard; the ST according to the low temperature standard. After each wash and dry cycle, the hip protectors were examined and compared to the control samples. Each hip protector was washed and dried 10 times. *Id.*

The HD hip protectors washed at high temperatures showed slight color loss but no physical deformation or degradation. The ST hip protectors washed at lower temperatures showed no sign of color loss or physical change. Both products maintained their integrity and shape after washing and drying at 150°F. Exhibit "A" to Plaintiff's Motion, § 4.

In his Supplemental Report, Mr. Minissian sets forth the protocol and results of some additional washing. In particular, the 80 hip protectors were broken into four batches of 20 hip protectors. After 10 subsequent wash and dry cycles, one hip protector was removed from each batch. Thus, after 100 additional washes, 10 hip protectors had been removed from each batch, leaving 10 hip protectors in each batch. Following the 100 wash cycles, the hip protectors were examined and found to have performed very well, with no indication of any chemical and physical deterioration from chemicals or high and low wash water temperatures. Exhibit "B" to Plaintiff's Motion, § I.

Mr. Minissian has been in the laundry business for almost 30 years. He makes his living designed and installing wash and chemical injection systems for, among others, the healthcare industry. He designed a wash test see whether Posey's products can be washed in accordance with certain CDC guidelines. His opinion is that the test is reliable. In contending that Mr. Minissian's opinion and/or his test are unreliable, HipSaver offers nothing. In short, there is nothing from which Court can conclude that Mr. Minissian's opinion does not meet the threshold standard of reliability.

2. All of HipSaver's Criticisms Go To the Weight Of Mr. Minissian's
Testimony, Not Its Admissibility.

HipSaver criticizes Mr. Minissian's wash testing of Posey's hip protectors on numerous factual grounds. However, any concerns raised by HipSaver's arguments go to the weight to be accorded Mr. Minissian's testimony, not its admissibility. *In re Paoli R.R. Yard PCB Litigation*, 35 F.3d 717, 745 (3rd Cir. 1994); *Loudermill v. Dow Chemical Co.*, 863 F.2d 566, 570 (8th Cir. 1988) ("As a general rule, the factual basis of an expert opinion goes to the credibility of the testimony, not the admissibility."). Moreover, HipSaver is free to challenge the bases for Mr. Minissian's conclusions through cross-examination and by presenting contrary evidence. *Id.*; *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 596, 125 L.Ed.2d 469 (1993).

In support of its criticisms, HipSaver argues, among other things, that Mr. Minissian's methodology is suspect because Mr. Minissian did not personally inspect the hip protectors when they were delivered to his office for testing. However, the deposition testimony cited in HipSaver's own brief directly contradicts this statement. In particular, Mr. Minissian states that, while he did not inspect the hip protectors as soon as they were delivered, he did so shortly afterwards in the presence of Posey's counsel. ("I think Doug came over and opened up and told me what – what they were because first time I've seen them.") Thus, he inspected the garments with before any washing was conducted. Exhibit "C" to Plaintiff's Motion, p. 91. Additionally, as he explained in his Original Report, an unwashed sample from each batch was kept in a plastic bag for control purposes. Exhibit "A" to Plaintiff's Motion, ¶ 4. Thus, there were always unwashed samples to compare washed samples against.

HipSaver next argues that Mr. Minissian's methodology is suspect because Mr. Minissian used a washing machine at an independent commercial laundry facility and because he did not

review any documentation at the facility regarding these machines. HipSaver's argument is unavailing.

As seen from Mr. Minissian's expert report, the machines used were "100 lb. commercial laundry machines manufactured by Milnor Corporation equipped with hot and cold water inlet water valves, computer controlled washer microprocessor for accurate temperature control and Norchem's NORFLOW-WIN precision chemical injection system for dosing laundry chemicals such as alkali, detergent, bleach and sour." Exhibit "A" to Plaintiff's Motion, ¶ 4. Clearly, Mr. Minissian and his long time technical manager, Mr. Gastelum, both know how to operate the machine, including Norchem's own chemical injection system. Exhibit "C" to Plaintiff's Motion, pp. 88-89. Moreover, the washing machine logs and protocol information Posey provided remove any doubt about the washing performed. See Ex. A. (EM 527-536 and EM 537-538). Thus, there is simply nothing from which to conclude that the machines were problematic, not "calibrated" or incorrectly used.

HipSaver next argues that Mr. Minissian's report is inherently unreliable because his long-time co-worker, Mr. Gastelum, performed the actual washing and because Mr. Minissian did not review whether Mr. Gastelum actually performed the washing in accordance with Mr. Minissian's instructions. This argument is meritless because the plain fact of the matter is that expert witnesses are routinely assisted by qualified associates in conducting experiments and studies that form the basis of their reports. See, e.g. *Sherman v. Scott*, 62 F.3d 136, 141-42 (5th Cir.1995) (testimony of supervisor admitted, even though testing was performed by subordinates); *Ellis v. Phillips* 2005 WL 1637826, *23 (S.D.N.Y.,2005) (it is not uncommon for an expert who did not perform certain tests to testify to the results of tests performed by others in the organization).

Here, Mr. Minissian was assisted by Mr. Gastelum. Mr. Gastelum's job responsibilities include going in and programming the washers of new customers, including setting up the formulas, titrations, injection quantities, water levels, and temperatures in washer controllers. Ex. C to Plaintiff's Motion, pp. 88-89. Again, the washing machine logs and protocol information that were produced to HipSaver clearly show what Mr. Gestelum did and when. *See* attached Exhibit "A" (EM 527-536 and EM 537-538). Moreover, had HipSaver wanted to pursue this issue, it could have asked to take Mr. Gastelum's deposition. Yet it never did. The bottom line is that Mr. Gastelum's involvement has no impact on the reliability of Mr. Minissian's expert opinions.

Additionally, HipSaver argues that Mr. Minissian's lack of knowledge regarding the material in the hip protector pads somehow renders his report unreliable. HipSaver fails to explain why this is so. Again, Posey provided the washing machine logs and protocol information to HipSaver and it even produced the hip protectors that were the subject of Mr. Minissian's wash tests at his deposition. Yet, HipSaver has wholly failed to point out any specific error.

Finally, HipSaver argues that Mr. Minissian's wash test was unreliable because Mr. Minissian did not sign the garments that had been tested until over six months after the tests were performed. However, when Mr. Minissian signed off on his review of the Posey hip protectors following the washings, he had before him hip protectors that had been labeled with their wash history. *See* Exhibit "C" to Plaintiff's Motion, 97:10-18. To the extent Plaintiff believes there are gaps in the chain of custody, this dispute goes to the weight to be accorded to the results, rather the admissibility.

The net result is that HipSaver should present its arguments regarding the alleged flaws in Mr. Minissian's test to the jury.

B. Mr. Minissian Is Fully Qualified As an Expert By Reason Of His Education, Knowledge And Experience

As an afterthought, HipSaver argues that Mr. Minissian is not properly qualified as an expert. However, as detailed in section I of the Original Report and in the Minissian Resume, Mr. Minissian has excellent educational qualifications and almost 30 years of relevant experience in the laundry industry. For the past 18 years Mr. Minissian worked at Norchem Corporation ("Norchem"), which manufactures and supplies laundry chemicals to the health care, linen, industrial and commercial laundry industry. As the Vice President of Operations for Norchem, Mr. Minissian develops, designs and manufactures laundry products, such as computerized chemical injection systems with proof of delivery to washers, water and energy recycling systems and washer controllers.

As for the assertion that Mr. Minissian does not have specific experience in hospital and/or institutional laundry and laundry products, HipSaver is simply wrong. Mr. Minissian develops and supplies laundry chemicals to the healthcare, linen, industrial and commercial laundry industry. Exhibit "A" to Plaintiff's Motion, § I.

Accordingly, Mr. Minissian is qualified as an expert witness under Rule 702 of the Federal Rules of Evidence, through his education, knowledge, skill and experience.

III. CONCLUSION

For the forgoing reasons, the Court should deny Plaintiff's motion to exclude opinion testimony of Kevin Minissian in its entirety.

Dated: May 22, 2007

J.T. POSEY COMPANY

By its attorneys,

/s/ Douglas H. Morseburg

Jeffrey G. Sheldon (Admitted Pro Hac Vice)
Douglas H. Morseburg (Admitted Pro Hac Vice)
SHELDON MAK ROSE & ANDERSON
100 E. Corson Street, 3d Floor
Pasadena, CA 91103-3842
626.796.4000

Anthony J. Fitzpatrick (BBO # 564324)
DUANE MORRIS LLP
470 Atlantic Avenue, Suite 500
Boston, MA 02210
857.488.4200

CERTIFICATE OF SERVICE

I certify that this document has been filed through the Electronic Case Filing System of the United States District Court for the District of Massachusetts and will be served electronically by the court to the Registered Participants identified in the Notice of Electronic filing.

May 22, 2007

/s/ Donald K. Piper

Donald K. Piper

EXHIBIT "A"

NorFlow-Win
Valet Services, El Monte
Washroom Time Line Report Summary

Washer 5

February 2006

Frm Num	Formula Name	Date	Start Time	End Time	Run Time
22	Posey 120 degree	2/2/2006	7:00:00 AM	7:44:00 AM	0:44
22	Posey 120 degree	2/2/2006	8:26:00 AM	9:08:00 AM	0:42
22	Posey 120 degree	2/2/2006	9:48:00 AM	10:31:00 AM	0:43
22	Posey 120 degree	2/2/2006	11:13:00 AM	11:55:00 AM	0:42
22	Posey 120 degree	2/2/2006	12:32:00 PM	1:15:00 PM	0:43
22	Posey 120 degree	2/2/2006	5:40:00 AM	6:22:00 AM	0:42
23	Posey 160 degree	2/3/2006	11:00:00 AM	11:48:00 AM	0:48
22	Posey 120 degree	2/3/2006	5:20:00 PM	6:01:00 PM	0:41
22	Posey 120 degree	2/3/2006	6:42:00 AM	7:25:00 AM	0:43
22	Posey 120 degree	2/3/2006	9:26:00 AM	10:10:00 AM	0:44
23	Posey 160 degree	2/3/2006	12:25:00 PM	1:12:00 PM	0:47
23	Posey 160 degree	2/3/2006	1:45:00 PM	2:33:00 PM	0:48
22	Posey 120 degree	2/3/2006	8:05:00 AM	8:47:00 AM	0:42
23	Posey 160 degree	2/6/2006	1:45:00 PM	2:33:00 PM	0:48
23	Posey 160 degree	2/6/2006	5:30:00 AM	6:19:00 AM	0:49
23	Posey 160 degree	2/6/2006	6:53:00 AM	7:40:00 AM	0:47
23	Posey 160 degree	2/6/2006	8:18:00 AM	9:05:00 AM	0:47
23	Posey 160 degree	2/6/2006	9:40:00 AM	10:26:00 AM	0:46
23	Posey 160 degree	2/6/2006	11:00:00 AM	11:47:00 AM	0:47
23	Posey 160 degree	2/6/2006	12:22:00 PM	1:08:00 PM	0:46

Page 1 of 1

Trial Exhibit

1102

Civil Action No. 05-10917 PBS

EM 527

NorFlow-Win
Valet Services, El Monte
Washroom Time Line Report Summary

Washer 5

April 2006

Frm Num	Formula Name	Date	Start Time	End Time	Run Time
22	Posey 120 degree	4/3/2006	5:30:00 AM	6:12:00 AM	0:42
22	Posey 120 degree	4/3/2006	6:50:00 AM	7:35:00 AM	0:45
22	Posey 120 degree	4/3/2006	8:20:00 AM	9:03:00 AM	0:43
22	Posey 120 degree	4/3/2006	9:50:00 AM	10:31:00 AM	0:41
22	Posey 120 degree	4/3/2006	11:16:00 AM	11:56:00 AM	0:40
22	Posey 120 degree	4/3/2006	12:35:00 PM	1:17:00 PM	0:42
22	Posey 120 degree	4/3/2006	1:40:00 PM	2:21:00 PM	0:41
22	Posey 120 degree	4/4/2006	5:15:00 AM	5:58:00 AM	0:43
22	Posey 120 degree	4/4/2006	6:45:00 AM	7:27:00 AM	0:42
22	Posey 120 degree	4/4/2006	8:03:00 AM	8:43:00 AM	0:40
22	Posey 120 degree	4/4/2006	9:20:00 AM	10:03:00 AM	0:43
22	Posey 120 degree	4/4/2006	10:45:00 AM	11:27:00 AM	0:42
22	Posey 120 degree	4/4/2006	12:10:00 PM	12:52:00 PM	0:42
22	Posey 120 degree	4/4/2006	1:25:00 PM	2:05:00 PM	0:40
22	Posey 120 degree	4/4/2006	2:40:00 PM	3:24:00 PM	0:44
22	Posey 120 degree	4/4/2006	4:00:00 PM	4:41:00 PM	0:41
22	Posey 120 degree	4/5/2006	5:37:00 AM	6:20:00 AM	0:43
22	Posey 120 degree	4/5/2006	7:29:00 AM	8:14:00 AM	0:45
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Trial Exhibit
1103

Civil Action No. 05-10917 PBS

Page 1 of 6

EM 528

April 2006

Frm Num	Formula Name	Date	Start Time	End Time	Run Time
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22	Posey 120 degree	4/6/2006	9:20:00 AM	10:02:00 AM	0:42
22	Posey 120 degree	4/6/2006	10:45:00 AM	11:28:00 AM	0:43
22	Posey 120 degree	4/6/2006	12:10:00 PM	12:51:00 PM	0:41
22	Posey 120 degree	4/6/2006	1:27:00 PM	2:11:00 PM	0:44
22	Posey 120 degree	4/7/2006	5:30:00 AM	6:14:00 AM	0:44
22	Posey 120 degree	4/7/2006	6:55:00 AM	7:38:00 AM	0:43
22	Posey 120 degree	4/7/2006	8:10:00 AM	8:51:00 AM	0:41
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22	Posey 120 degree	4/11/2006	1:25:00 PM	2:08:00 PM	0:43

*Page 2 of 6***EM 529**

April 2006

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*Page 3 of 6***EM 530**

April 2006

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22	Posey 120 degree	4/18/2006	9:10:00 AM	9:51:00 AM	0:41
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22	Posey 120 degree	4/21/2006	8:00:00 AM	8:41:00 AM	0:41
22	Posey 120 degree	4/21/2006	9:20:00 AM	10:04:00 AM	0:44
22	Posey 120 degree	4/21/2006	10:42:00 AM	11:24:00 AM	0:42
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*Page 4 of 6***EM 531**

April 2006

Frm Num	Formula Name	Date	Start Time	End Time	Run Time
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22	Posey 120 degree	4/22/2006	8:41:00 AM	9:23:00 AM	0:42
23	Posey 160 degree	4/22/2006	10:02:00 AM	10:50:00 AM	0:48
23	Posey 160 degree	4/22/2006	11:30:00 AM	12:17:00 PM	0:47
23	Posey 160 degree	4/22/2006	12:55:00 PM	1:43:00 PM	0:48
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23	Posey 160 degree	4/25/2006	5:45:00 AM	6:33:00 AM	0:48
23	Posey 160 degree	4/25/2006	7:13:00 AM	8:00:00 AM	0:47
23	Posey 160 degree	4/25/2006	8:45:00 AM	9:33:00 AM	0:48
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23	Posey 160 degree	4/25/2006	1:05:00 PM	1:52:00 PM	0:47
23	Posey 160 degree	4/26/2006	5:30:00 AM	6:18:00 AM	0:48
23	Posey 160 degree	4/26/2006	6:55:00 AM	7:42:00 AM	0:47
23	Posey 160 degree	4/26/2006	8:20:00 AM	9:09:00 AM	0:49
23	Posey 160 degree	4/26/2006	9:49:00 AM	10:37:00 AM	0:48
23	Posey 160 degree	4/26/2006	11:15:00 AM	12:02:00 PM	0:47
23	Posey 160 degree	4/26/2006	12:50:00 PM	1:36:00 PM	0:46
23	Posey 160 degree	4/27/2006	5:40:00 AM	6:28:00 AM	0:48
23	Posey 160 degree	4/27/2006	7:10:00 AM	7:57:00 AM	0:47

*Page 5 of 6***EM 532**

April 2006

Frm Num	Formula Name	Date	Start Time	End Time	Run Time
23	Posey 160 degree	4/27/2006	8:35:00 AM	9:24:00 AM	0:49
23	Posey 160 degree	4/27/2006	10:55:00 AM	11:43:00 AM	0:48
23	Posey 160 degree	4/27/2006	12:20:00 PM	1:08:00 PM	0:48
23	Posey 160 degree	4/28/2006	5:45:00 AM	6:32:00 AM	0:47
23	Posey 160 degree	4/28/2006	7:10:00 AM	7:59:00 AM	0:49
23	Posey 160 degree	4/28/2006	8:40:00 AM	9:28:00 AM	0:48
23	Posey 160 degree	4/28/2006	10:20:00 AM	11:07:00 AM	0:47
23	Posey 160 degree	4/28/2006	11:45:00 AM	12:33:00 PM	0:48
23	Posey 160 degree	4/28/2006	1:15:00 PM	2:04:00 PM	0:49

NorFlow-Win
Valet Services, El Monte
Washroom Time Line Report Summary

Washer 5

May 2006

Frm Num	Formula Name	Date	Start Time	End Time	Run Time
23	Posey 160 degree	5/1/2006	5:30:00 AM	6:18:00 AM	0:48
23	Posey 160 degree	5/1/2006	6:55:00 AM	7:42:00 AM	0:47
23	Posey 160 degree	5/1/2006	8:20:00 AM	9:08:00 AM	0:48
23	Posey 160 degree	5/1/2006	9:47:00 AM	10:34:00 AM	0:47
23	Posey 160 degree	5/1/2006	11:12:00 AM	12:01:00 PM	0:49
23	Posey 160 degree	5/1/2006	12:45:00 PM	1:33:00 PM	0:48
23	Posey 160 degree	5/2/2006	5:50:00 AM	6:37:00 AM	0:47
23	Posey 160 degree	5/2/2006	7:20:00 AM	8:08:00 AM	0:48
23	Posey 160 degree	5/2/2006	8:53:00 AM	9:40:00 AM	0:47
23	Posey 160 degree	5/2/2006	10:24:00 AM	11:13:00 AM	0:49
23	Posey 160 degree	5/2/2006	11:55:00 AM	12:42:00 PM	0:47
23	Posey 160 degree	5/2/2006	1:20:00 PM	2:08:00 PM	0:46
23	Posey 160 degree	5/3/2006	6:00:00 AM	6:48:00 AM	0:48
23	Posey 160 degree	5/3/2006	7:30:00 AM	8:17:00 AM	0:47
23	Posey 160 degree	5/3/2006	9:55:00 AM	10:43:00 AM	0:48
23	Posey 160 degree	5/3/2006	11:20:00 AM	12:06:00 PM	0:46
23	Posey 160 degree	5/3/2006	1:05:00 PM	1:53:00 PM	0:48
23	Posey 160 degree	5/4/2006	6:00:00 AM	6:47:00 AM	0:47
23	Posey 160 degree	5/4/2006	7:25:00 AM	8:13:00 AM	0:48
23	Posey 160 degree	5/4/2006	8:50:00 AM	9:37:00 AM	0:47
23	Posey 160 degree	5/4/2006	10:15:00 AM	11:03:00 AM	0:48
23	Posey 160 degree	5/4/2006	11:40:00 AM	12:26:00 PM	0:46
23	Posey 160 degree	5/4/2006	1:10:00 PM	1:59:00 PM	0:49
23	Posey 160 degree	5/5/2006	5:30:00 AM	6:18:00 AM	0:48

Page 1 of 3

Trial Exhibit
1104

Civil Action No. 05-10917 PBS

EM 534

May 2006

Frm Num	Formula Name	Date	Start Time	End Time	Run Time
23	Posey 160 degree	5/5/2006	6:55:00 AM	7:42:00 AM	0:47
23	Posey 160 degree	5/5/2006	8:20:00 AM	9:08:00 AM	0:48
23	Posey 160 degree	5/5/2006	9:45:00 AM	10:31:00 AM	0:46
23	Posey 160 degree	5/5/2006	11:10:00 AM	11:59:00 AM	0:49
23	Posey 160 degree	5/5/2006	12:35:00 PM	1:22:00 PM	0:47
23	Posey 160 degree	5/6/2006	5:40:00 AM	6:28:00 AM	0:48
23	Posey 160 degree	5/6/2006	7:05:00 AM	7:51:00 AM	0:46
23	Posey 160 degree	5/6/2006	8:30:00 AM	9:17:00 AM	0:47
23	Posey 160 degree	5/6/2006	9:55:00 AM	10:43:00 AM	0:48
23	Posey 160 degree	5/6/2006	11:22:00 AM	12:11:00 PM	0:49
23	Posey 160 degree	5/6/2006	12:50:00 PM	1:36:00 PM	0:46
23	Posey 160 degree	5/8/2006	5:30:00 AM	6:17:00 AM	0:47
23	Posey 160 degree	5/8/2006	7:05:00 AM	7:53:00 AM	0:48
23	Posey 160 degree	5/8/2006	8:30:00 AM	9:19:00 AM	0:49
23	Posey 160 degree	5/8/2006	9:50:00 AM	10:36:00 AM	0:46
23	Posey 160 degree	5/8/2006	11:13:00 AM	12:00:00 PM	0:47
23	Posey 160 degree	5/8/2006	12:35:00 PM	1:24:00 PM	0:49
23	Posey 160 degree	5/9/2006	6:00:00 AM	6:48:00 AM	0:48
23	Posey 160 degree	5/9/2006	7:25:00 AM	8:11:00 AM	0:46
23	Posey 160 degree	5/9/2006	8:50:00 AM	9:37:00 AM	0:47
23	Posey 160 degree	5/9/2006	10:15:00 AM	11:04:00 AM	0:49
23	Posey 160 degree	5/9/2006	11:45:00 AM	12:33:00 PM	0:48
23	Posey 160 degree	5/9/2006	1:10:00 PM	1:57:00 PM	0:47
23	Posey 160 degree	5/10/2006	5:30:00 AM	6:16:00 AM	0:46
23	Posey 160 degree	5/10/2006	6:50:00 AM	7:38:00 AM	0:48
23	Posey 160 degree	5/10/2006	8:15:00 AM	9:02:00 AM	0:47
23	Posey 160 degree	5/10/2006	9:40:00 AM	10:26:00 AM	0:46
23	Posey 160 degree	5/10/2006	11:05:00 AM	11:53:00 AM	0:48

Page 2 of 3

EM 535

May 2006

Frm Num	Formula Name	Date	Start Time	End Time	Run Time
23	Posey 160 degree	5/10/2006	1:40:00 PM	2:29:00 PM	0:49
23	Posey 160 degree	5/11/2006	6:10:00 AM	6:58:00 AM	0:48
23	Posey 160 degree	5/11/2006	7:42:00 AM	8:29:00 AM	0:47
23	Posey 160 degree	5/11/2006	9:08:00 AM	9:56:00 AM	0:48
23	Posey 160 degree	5/11/2006	10:45:00 AM	11:31:00 AM	0:46
23	Posey 160 degree	5/11/2006	12:05:00 PM	12:53:00 PM	0:48
23	Posey 160 degree	5/11/2006	1:42:00 PM	2:29:00 PM	0:47
23	Posey 160 degree	5/15/2006	6:00:00 AM	6:49:00 AM	0:49
23	Posey 160 degree	5/15/2006	7:25:00 AM	8:12:00 AM	0:47
23	Posey 160 degree	5/15/2006	8:50:00 AM	9:38:00 AM	0:48
23	Posey 160 degree	5/15/2006	10:20:00 AM	11:06:00 AM	0:46
23	Posey 160 degree	5/15/2006	11:42:00 AM	12:29:00 PM	0:47
23	Posey 160 degree	5/16/2006	7:00:00 AM	7:49:00 AM	0:49
23	Posey 160 degree	5/16/2006	8:25:00 AM	9:11:00 AM	0:46
23	Posey 160 degree	5/16/2006	9:44:00 AM	10:30:00 AM	0:46
23	Posey 160 degree	5/16/2006	11:18:00 AM	12:05:00 PM	0:47
23	Posey 160 degree	5/16/2006	12:40:00 PM	1:28:00 PM	0:48

**NORCHEM™***The Sign of Progress***WATER AND ENERGY CONSERVATION WASH FORMULAS**

5649 Alhambra Avenue, Los Angeles, California 90032

Phone: (323) 221-0221 • FAX: (323) 227-8733

WASH FORMULA GUIDECUSTOMER Posey FORMULA NO. 22 SOIL TYPE LIGHTITEMS Hip protector LOAD SIZE 40 pieces

EVENT	FUNCTIONS	TEMP.	LEVEL	H ₂ O	GALS.	TIME	CHEMICALS		OZ	PH	PPM
1	Break	120°	Low	Split		15	Normax Norbrite		5 3	11.1	305
2	Drain					1					
3	Bleach	120 F	Low	Split		10	C-White		8	10.4	210
4	Drain					1					
5	RINSE		HIGH	COLD		2					
6	DRAIN					1					
7	RINSE		HIGH	COLD		4	Microsoft		1	6.5	0
8	EXTRACT					6					
9											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20											

TOTAL WASH TIME 40 MINUTES

NOTE: Break PPM is active alkalinity. Bleach PPM is chlorine activity.

PREPARED BY: Jaime Gastelum

DATE 02-12-2006

Trial Exhibit
1105

Civil Action No. 05-10917 PBS

EM 537

**NORCHEM™***The Sign of Progress***WATER AND ENERGY CONSERVATION WASH FORMULAS**

5649 Alhambra Avenue, Los Angeles, California 90032

Phone: (323) 221-0221 • FAX: (323) 227-8733

WASH FORMULA GUIDE

CUSTOMER Posey FORMULA NO. 23 SOIL TYPE LIGHT

ITEMS Hip Protector LOAD SIZE 40 pieces

EVENT	FUNCTIONS	TEMP.	LEVEL	H ₂ O	GALS.	TIME	CHEMICALS		OZ	PH	PPM
1	Break	160°	Low	Hot		15	Normax Norbrite		5 3	11.1	305
2	Drain					1					
3	Bleach	160°	Low	Hot		10	C-White		6	10.2	170
4	Drain					1					
5	RINSE	120	HIGH	COLD		2					
6	DRAIN					1					
7	RINSE	100	HIGH	COLD		4	Microsoft		1	6.5	0
8	EXTRACT					6					
9											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20											

TOTAL WASH TIME 40 MINUTES

NOTE: Break indicates active alkalinity. Bleach indicates active chlorine.

PREPARED BY: Jaime Gastelum

DATE 02-12-2006

EM 538